

# RESOLUTIONS

PROPOSED

FOR CONSIDERATION

AT THE

**2021 SUMMER POLICY SUMMIT**

OF THE

**NATIONAL ASSOCIATION OF  
REGULATORY UTILITY COMMISSIONERS**

**In Denver, Colorado**

**Revised 07/06/2021 5:20 PM**

*Important caveat: The descriptions in the Table of Contents are truncated. If you are interested in the topic, you should read the entire resolution to get a better idea of what is being proposed. NOTE – These proposed resolutions are not NARUC positions. They are, instead, PROPOSED positions that can be modified or Tabled at the Summer Policy Summit.*

**(Questions? Contact Brad Ramsay at 202.898.2207 or [jramsay@naruc.org](mailto:jramsay@naruc.org))**

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#### **TC-1 Resolution Supporting Recommendations from the Broadband Expansion Task Force Page 3**

*Sponsor: Commissioner Chris Nelson (7/1 3:04 pm version from Commissioner Nelson)*

*Resolution adopts the recommendations from the NARUC Broadband Expansion Task Force.*

#### **TC-2 Resolution in Support of California’s Petition for Reconsideration Requesting the FCC Seek Comments on Whether the Public Interest and Competition Would Be Served by Maintaining its Policy to Presume All Network Outage Reporting System and Disaster Information Reporting System Information to be Confidential Page 6**

*Sponsor: Commissioner Rechtschaffen (7/6 4:29 pm version from Joanna Perez-Green)*

*Resolution urges the FCC to seek comment on California PUC’s Petition for Reconsideration re: the presumption that all reported network outage data should be confidential.*

#### **TC-3 Resolution on Ensuring that Low-Income Households Can Efficiently Enroll in the Emergency Broadband Benefit Program; and Seeking Additional Funding for the EBB Program at least until the FCC Can Increase Lifeline Reimbursements to Meet Low-Income Household Needs. Page 8**

*Sponsors: Commissioners Rhoades (7/6 5:27 pm version from Commissioner Rhoades.)*

*Resolution (i) urges the FCC to seek additional funding from Congress to extend the duration of the EBB as long as necessary, (ii) suggests that in any legislation funding a temporary extension of the EBB program, Congress should phase out the current partial bypass of the State Eligible Telecommunications Carrier designation process, and (iii) urges the FCC “to reform the Lifeline program consistent with lessons learned from EBB, including consideration of how an increase in the Lifeline subsidy would provide more robust broadband connectivity for low-income consumers, reforming the minimum service standards, and increasing transparency by developing a public USAC dashboard displaying Lifeline enrollment and de-enrollment metrics along with data regarding the timeliness and expense of National Verifier eligibility verification methods.”*

***TC-1 Resolution Supporting Recommendations from the Broadband Expansion Task Force***

*Whereas* NARUC has a long history of promoting universal service and broadband deployment;

*Whereas* broadband networks and services drive the national and state economies and ubiquitous broadband deployment can only raise standards of living and bring major advances in education, healthcare, teleworking, e-commerce, public safety, and security;

*Whereas* state and federal policymakers must find ways to assure that networks are promptly and efficiently deployed;

*Whereas* NARUC members understand the urgency of eliminating the gap between those who have broadband available and those who do not;

*Whereas* NARUC President Brandon Presley created the Broadband Expansion Task Force in February 2020 to identify the best mechanisms for NARUC and its members to speed the deployment of broadband;

*Whereas* the Broadband Expansion Task Force was specifically asked to identify:

- (1) How some states have successfully shifted state universal service funds from telephone and op ex support to broadband buildout capital support;
- (2) What other state programs are successfully building out broadband, how are they funded, and how are they structured;
- (3) How NARUC and NARUC members can best work with the FCC to help craft Universal Service Fund programs that will be most successful at expanding broadband into unserved areas;
- (4) Electric and gas utilities that have successfully leveraged their infrastructure to provide broadband service; and
- (5) Information related to the impacts of rural broadband deployment on economic development, education, healthcare, quality of life, the delivery of public utilities services and its ultimate benefits to customers.

*Whereas* the Broadband Expansion Task Force created a report summarizing the task force research on each of these topic areas;

*Whereas* the Broadband Expansion Task Force report led to the creation of recommendations for accomplishing the purpose of the task force; *now, therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2021 Summer Policy Summit in Denver, CO adopt the following Broadband Expansion Task Force recommendations:

## 1. **Broadband mapping**

- Congress, NTIA, and the FCC should work with the states to provide an overlay to the US broadband map with information showing where broadband is actually available for installation, including detailed information on the amounts provided or committed by all federal and state sources. This will help states, Congress, and federal agencies identify what money has been made available for specific areas to assist in preventing overlapping funding. Encourage new funding sources for broadband expansion be funneled through existing programs where possible. If new programs are needed to fill the cracks between the CAF II, RDOF, state, and other programs, they must be carefully coordinated with existing programs.

## 2. **Enhance broadband program coordination**

- Revitalize and aggressively use the Federal State Joint Board on Universal Service to provide information on broadband availability through quarterly state-FCC information sharing calls. This information will allow the states and the FCC to better target universal service funds.
- Increase state commissions' presence and participation in initiatives sponsored by the National Telecommunication and Information Administration (NTIA), particularly, the State Broadband Leaders Network (SBLN) and the Digital Inclusion Leaders Network (DILN)
- Identify public utility commissions' role in broadband deployment and adoption and participate in state-level broadband initiatives. Where appropriate, commissions may wish to communicate to the state legislature or executive office an interest in leading statewide engagement on broadband.
- Priority should be placed on providing broadband service in unserved areas (<25/3mbps) while understanding that improvements must be made over time in underserved areas (<100/10mbps).

## 3. **Ensure that broadband providers meet their obligations**

- Develop a centralized database of carriers that fail to meet obligations from previous Universal Service funding, including CAF, CAF II, RDOF, other federal funds designed to deploy telephone and broadband services, as well as state funding for building and maintaining telecommunications networks where applicable. This will ensure that the FCC and the states have the data necessary to ensure that funding is provided only to those companies that are meeting their obligations.
- Implement regular testing of network speed, latency, and reliability for carriers receiving federal or state funding for building and maintaining telecommunications networks. Make the results of this testing available to the states on a regular basis so

that the states will have the information necessary to ensure that the ETCs they have approved are meeting the requirements.

#### **4. Support non-traditional providers**

- While traditional telecommunications providers will continue to provide the vast majority of broadband internet access services, we support non-traditional broadband providers, electric co-ops, municipal utilities, and IOUs providing service in unserved and underserved areas in order to quickly close the broadband availability gap.
- Work with the states to consider the need for state legislation to remove barriers to electric and gas utilities providing broadband service in unserved and underserved areas, including examining the need to amend state statutes and remove barriers to using rights of way for services such as fiber deployment. Consider developing a model statute that states may use to address regulatory barriers.
- Support the states' examination of how and whether to allow electric and gas utilities to recover the costs of broadband infrastructure, including whether these costs should be assessed to all customers or directed solely to those who will benefit from the expansion.

#### **5. Broadband adoption**

- Urge the FCC to coordinate Lifeline enrollment efforts with other federal and state programs, including streamlining eligibility for Lifeline support.
- Urge ISPs to provide a broadband offer that will support eligible households.
- Urge the FCC to consider transitioning the temporary Emergency Broadband Benefit Fund into permanent increases in the Lifeline subsidy to assist eligible households in obtaining the broadband service they will need now and in the future.
- Include local communities and anchor institutions in planning and adoption efforts through robust and continuous stakeholder outreach, engagement, and education.

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*Passed by the Committee on Telecommunications July \_\_, 2021.*

*Adopted by the NARUC Board of Directors July \_\_, 2021.*

***TC-2 Resolution in Support of California’s Petition for Reconsideration Requesting the Federal Communications Commission Seek Comments on Whether the Public Interest and Competition Would Be Served by Maintaining its Policy to Presume All Network Outage Reporting System and Disaster Information Reporting System Information to be Confidential***

*Whereas* the Federal Communications Commission (FCC) amended its Part 4 Rules Concerning Disruptions to Communications to include a framework for sharing Network Outage Reporting System (“NORS”) and Disaster Information Reporting System (“DIRS”) filings with states and other specified entities who need to know the information to carry out their public safety duties. [*Second Report and Order*, In the Matter of Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications, released March 18, 2021];

*Whereas*, in the *Second Report and Order*, the FCC declined “to reverse at this time the Commission’s long-held view that NORS and DIRS information warrants confidential treatment” because of “the lack of new information provided by commenters on the current record.” [*Second Report and Order*, at ¶ 46];

*Whereas*, in the *Second Report and Order*, the FCC acknowledged that “some commenters assert that public access to some outage information would benefit the public.” [*Ibid.*];

*Whereas* in the *Second Report and Order*, the FCC acknowledged receiving comments that the presumption of confidentiality for all NORS and DIRS information is not fully warranted (*See e.g.*, National Association of State 911 Administrators April 29, 2020, Comments; Colorado Public Utilities Commission April 29, 2020, Comments; Boulder Regional Emergency Telephone Service Authority April 30, 2020, Comments; Letter from Harold Feld, Senior Vice President, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 15-80 (March 9, 2021));

*Whereas* in the *Second Report and Order*, the FCC acknowledged that it had not sought comment on which types of NORS and DIRS should or should not receive confidential treatment [*Second Report and Order*, at ¶ 46];

*Whereas*, in the *Second Report and Order*, the FCC stated that “nothing we do today permanently forecloses us from examining this issue further in the future.” [*Ibid.*];

*Whereas* the California Public Utilities Commission (“CPUC”) petitioned the Federal Communications Commission (“FCC”) to reconsider the FCC’s conclusion in Paragraph 66 of the *Second Report and Order* that “Based on the lack of new information provided by commenters on the current record, we decline to reverse at this time the Commission’s long-held view that NORS and DIRS information warrants confidential treatment.”

*Whereas* the FCC last visited the question of whether outage information should be treated as presumptively confidential nearly seventeen (17) years ago in August 2004 in *New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, 19 FCC Rcd 16830 (2004);

*Whereas* the FCC provided notice of the CPUC’s Petition in the Federal Register on [date];

*Whereas* the National Association of Regulatory Utility Commissioners (“NARUC”) has filed extensive comments in this proceeding based on a February 15, 2015, *NARUC Resolution on State Access to the NORS Database*, most recently on June 1, 2020;

*Whereas* NARUC passed its November 11, 2020, *Resolution on State Access to the Network Outage Reporting System and Disaster Information Reporting System Filings* resolving to urge the FCC to approve expeditiously the *Notice of Proposed Rulemaking*, PS Docket No. 15-80, for State public utility commissions and/or other State-identified State agencies to have direct and immediate secure access to State-specific NORS and DIRS filings;

*Whereas* New York State Public Service Commission, Pennsylvania Public Utility Commission, Michigan Public Service Commission, Colorado Public Utilities Commission, Massachusetts Department of Telecommunications and Cable, the Public Service Commission of the District of Columbia, the Missouri Public Service Commission, the Virginia State Corporation Commission, and the Washington State Utilities and Transportation Commission are all interested parties to this particular docket;

*Whereas* NARUC is informed that many states other than California are interested in revisiting the presumption of confidentiality of outage information given the passage of time and changed circumstances; *now, therefore be it*

*Resolved* that the Board of Directors of NARUC convened at its 2021 Summer Policy Summit in Denver, Colorado, urges the FCC to grant the CPUC’s Petition and reopen the proceeding to take comment on the issue of whether the FCC should keep its presumption of confidentiality for NORS and DIRS filings.

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*Sponsored by the Committee on Telecommunications on July \_\_, 2021*

*Adopted by the NARUC Board of Directors on July \_\_, 2021*

***TC-3 Resolution on Ensuring that Low-Income Households Can Efficiently Enroll in the Emergency Broadband Benefit Program; and Seeking Additional Funding for the EBB Program at Least Until the FCC Can Increase Lifeline Reimbursements to Meet Low-Income Household Needs.***

*Whereas* on December 27, 2020, the Consolidated Appropriations Act (“the Act”) became law, and in the Act, among other things, Congress directed the Federal Communications Commission (“FCC”) to create the Emergency Broadband Benefit program (“EBB”) to provide a monthly discount on high speed broadband services for qualifying low-income consumers, with the goal that all Americans stay connected to distance learning, telehealth, and remote access to work and government services during the COVID-19 pandemic;

*Whereas* the COVID-19 pandemic has forced schools, workplaces, healthcare and government offices across the U.S. to transition to remote work, distance learning, and telehealth to slow the spread of COVID-19;

*Whereas* consumers require high-speed broadband internet service in order to remotely access the audio-visual applications used to continue their work, schooling, and access to healthcare and government services;

*Whereas* low-income households have faced greater challenges in access to employment, education, health and government services due to their lack of access to affordable broadband service;

*Whereas* the increased reliance on remote work, distance learning, telehealth, and remote access to government services is likely to continue beyond the end of the COVID-19 pandemic;

*Whereas* Congress appropriated \$3.2 billion in funds for EBB and directed the FCC to implement the program until the funds expire and provide a discount on broadband internet service of up to \$50 per month and a discount on the purchase of a connected device (such as a tablet) of up to \$100;

*Whereas* Lifeline provides a discount on broadband internet service of \$9.25 per month, and since December 1, 2020, the FCC minimum service standards for full Lifeline support requires plans offering 4.5 GB of mobile broadband data;

*Whereas* many EBB providers are offering unlimited mobile data plans (+20 GB) in order to ensure that eligible low-income households have adequate broadband connectivity, and such plans have a regular retail rate of around \$60-70;

*Whereas* the Act provides automatic eligibility for EBB to all households that are currently enrolled in Lifeline, and also extends EBB eligibility to households that (1) participate in the federal free and reduced price lunch program; (2) experienced a substantial loss of income since February 29, 2020 that is documented by a layoff or furlough notice, application for unemployment insurance benefits, or similar documentation; (3) received a Federal Pell Grant student loan; or (4)



meet the eligibility criteria for a participating provider's existing low-income or COVID-19 broadband program;

*Whereas* between May 12 and June 28, 2021, over 3.1 million eligible households enrolled in EBB, which represents only 3% of the 74 million people currently eligible for Medicaid—who are also eligible for EBB; and as result of increasing enrollments, EBB may exhaust the program's funds during the 2021-2022 academic year;

*Whereas* USAC reports that 9.1 million households were enrolled in Lifeline as of April 2021;

*Whereas* in 2016, the FCC issued the Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) (“Lifeline Modernization Order”) that created a national eligibility verification program (“National Verifier”) in order to improve the Lifeline enrollment process; and as of December 2020, the National Verifier had launched in all 56 states and jurisdictions;

*Whereas* experiences in launching the National Verifier demonstrated that application program interfaces (“APIs”) between providers, the National Verifier and state databases such as the Supplemental Nutrition Assistance Program (“SNAP”), Supplemental Security Income (“SSI”), and federal/state Medicaid databases greatly improved the National Verifier's efficiency and accuracy in determining subscribers' eligibility, and in July 2018, the National Association of Regulatory Utility Commissioners (“NARUC”) passed a resolution urging the FCC to order USAC to incorporate service provider APIs into the National Verifier and thereafter, in February 2019, NARUC passed an additional resolution urging USAC to ensure critical state/federal databases for eligibility programs such as SNAP and Medicaid are utilized in states where the National Verifier had been or was being launched;

*Whereas* following the launch of the National Verifier, the Government Accountability Office (“GAO”) reported that 68% of Lifeline applicants dropped out of the manual eligibility review process, which was necessitated by a lack of National Verifier APIs with certain state SNAP databases;

*Whereas* the FCC has directed providers to enroll EBB eligible households through the National Lifeline Accountability Database (NLAD) and the National Verifier, however the National Verifier does not have an API that can be used by service providers to initiate EBB enrollments, like it does for Lifeline, and nor does it allow service providers to submit applicant documentation as required by the EBB Order;

*Whereas* the lack of API parity for EBB enrollments using the National Verifier, as compared to the fuller API functionality for Lifeline enrollments, has made enrolling consumers in EBB more difficult because the applicant information used by the consumer in the National Verifier must exactly match the information the applicant provided to the Lifeline service provider to enroll, as previously occurred during the initial launch of the National Verifier for Lifeline;

*Whereas* providers have documented instances of eligible households spending multiple hours to complete the EBB manual eligibility verification process; and API parity for the EBB enrollment

process with the addition of document transmission capabilities to the EBB API would greatly improve the timeliness of eligibility verification ;

*Whereas* the FCC and USAC have not completed development or provided a date certain for implementation of National Verifier API parity and document transmission functionality for EBB enrollments;

*Whereas* neither the FCC nor the USAC have made available data concerning the impact of the lack of API parity and manual review delays on the ability of subscribers to enroll in EBB, but apparently eligible EBB subscribers, including current Lifeline subscribers that are eligible to automatically opt-in to EBB, have likely been unable to enroll due the lack of API parity to support EBB enrollment and the manual review delays;

*Whereas* these problems will necessarily continue until needed technological and system improvements, including API parity, are made to the National Verifier enrollment process for EBB;

*Whereas* in the Lifeline Modernization Order, the FCC required the study and development of a report on the state of the Lifeline marketplace and recommended program reforms, including to the minimum service standards for broadband data usage, (“Lifeline Marketplace Report”) by June 30, 2021;

*Whereas* the FCC should take lessons from the EBB to reform the Lifeline program, including consideration of an increased Lifeline reimbursement amount, reforming the minimum service standards, and increasing transparency by developing a public USAC dashboard displaying Lifeline enrollment and de-enrollment metrics, along with data regarding the timeliness and expense of National Verifier eligibility verification methods;

*Whereas* on May 4, 2021, NARUC filed comments at the FCC advocating for the Lifeline Marketplace Report to use EBB as a tool to promote a natural re-examination of the Federal-State Partnership on Lifeline, using the ETC designation process as a tool to coordinate and condition provision of Lifeline;

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners (“NARUC”), convened at its 2021 Summer Policy Summit in Denver, Colorado, requests that the FCC and USAC work quickly and collaboratively with service providers and other stakeholders to fix the National Verifier process for EBB enrollments by implementing service provider API that ensure parity with the Lifeline program API and an added document transmission functionality to ensure that EBB achieves its stated goals to help low-income households stay connected to remote work, telehealth, distance learning and remote access to government services during the COVID-19 pandemic, without undue burdens or delays for EBB eligible households; and be it further

*Resolved* that NARUC urges the FCC to seek additional funding from existing or proposed appropriations of federal funds in order to extend the duration of the EBB for as long as necessary to ensure low-income households continue to have robust access to work, education, healthcare,

and government services as transitions to remote work and government service provision, distance learning and telehealth continue during and beyond the COVID-19 pandemic, and at least until the FCC increases the Lifeline reimbursement to meet these needs; and be it further

*Resolved* that, in any legislation funding a temporary extension of the EBB program, Congress should phase out the current partial bypass of the State Eligible Telecommunications Carrier designation process;

*Resolved* that NARUC urges the FCC to reform the Lifeline program consistent with lessons learned from EBB, including consideration of how an increase in the Lifeline subsidy would provide more robust broadband connectivity for low-income consumers, reforming the minimum service standards, and increasing transparency by developing a public USAC dashboard displaying Lifeline enrollment and de-enrollment metrics along with data regarding the timeliness and expense of National Verifier eligibility verification methods.

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*Sponsored by the Committee on Telecommunications on July \_\_, 2021*

*Adopted by the NARUC Board of Directors on July \_\_, 2021*